



BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2014-0015]

RIN 0579-AD95

Importation of Fresh Citrus Fruit From the Republic of South Africa Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation of several varieties of fresh citrus fruit, as well as Citrus hybrids, into the continental United States from areas in the Republic of South Africa where citrus black spot has been known to occur. As a condition of entry, the fruit would have to be produced in accordance with a systems approach that would include shipment traceability, packinghouse registration and procedures, and phytosanitary treatment. The fruit would also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of South Africa with an additional declaration confirming that the fruit has been produced in accordance with the systems approach. This action would allow for the importation of fresh citrus fruit, including Citrus hybrids, from the Republic of South Africa while continuing to provide protection against the introduction of plant pests into the United States.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0015>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2014-0015, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0015> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 851-2114.

SUPPLEMENTARY INFORMATION:

#### Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-69, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

Currently, the regulations allow for the importation of citrus fruit from the Republic of South Africa from an area designated free of citrus black spot (Guignardia citricarpa, CBS)<sup>1</sup> provided the shipment has undergone cold treatment in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual to mitigate against infestation by the false codling moth (Thaumatotibia leucotreta), fruit flies of the genera Ceratitis and Pterandrus, and Bactrocera invadens, and is accompanied by a permit and subjected to inspection, shipping, and packinghouse procedures.

The national plant protection organization (NPPO) of the Republic of South Africa has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations in order to allow grapefruit (Citrus paradisi Macfad.), sweet oranges (C. sinensis (L.) Osbeck), mandarins (C. reticulata), lemons (C. limon), and tangelos (C. paradisi x C. reticulata) to be imported from areas where CBS has been known to occur into the continental United States. (Hereafter we refer to these species as “citrus fruit.”) As part of our evaluation of the Republic of South Africa’s request, we prepared a commodity import evaluation document (CIED). Copies of the CIED may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site or in our reading room (see ADDRESSES above for a link to Regulations.gov and information on the location and hours of the reading room).

Domestically, CBS has been found to be present in certain areas in the State of Florida. The requirements for interstate movement of regulated articles from those areas are stipulated in

---

<sup>1</sup> A list of pest-free areas currently recognized by APHIS can be found at [http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf).

a Federal Order issued on March 16, 2012.<sup>2</sup> The requirements of the Federal Order parallel the intrastate movement and quarantine requirements set out by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry. We have determined that the CBS status of the Republic of South Africa is identical to the CBS status of infested areas in the State of Florida and therefore the same phytosanitary standards and practices should apply.

The CIED we prepared in response to the Republic of South Africa's market access request, titled "South Africa Citrus: access using U.S. domestic requirements for Citrus Black Spot." (July 20, 2012), affirms that phytosanitary measures that are the same or equivalent to the interstate movement requirements established by APHIS could be applied to mitigate the risks of introducing or disseminating CBS via the importation of citrus fruit from areas in the Republic of South Africa where CBS is known to occur. Since these areas are not designated as being free of CBS, we have determined that measures beyond standard port-of-arrival inspections are required to mitigate the risks posed by CBS. Therefore, we are proposing to allow the importation of citrus fruit from these areas in the Republic of South Africa into the continental United States only if it is produced under a systems approach, which is described below. Citrus from the Republic of South Africa that is produced in one of the areas designated free of CBS would continue to be allowed entry under the current requirements.

We are proposing to add the systems approach to the regulations in a new § 319.56-70.

Commercial Consignments

Paragraph (a) of proposed § 319.56-70 would state that only commercial consignments of citrus fruit from areas in the Republic of South Africa where CBS is known to occur would be

---

<sup>2</sup> The Federal Order is available on the Internet at [http://www.aphis.usda.gov/plant\\_health/plant\\_pest\\_info/citrus/downloads/black\\_spot/DA-2012-09-federalorder.pdf](http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/downloads/black_spot/DA-2012-09-federalorder.pdf).

allowed to be imported into the continental United States. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56-2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packing, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

#### General Requirements

Paragraph (b) of proposed § 319.56-70 would set out general requirements for the South African NPPO and for growers and packers producing citrus fruit for export to the United States.

The South African NPPO would be required to provide an operational workplan to APHIS that details the activities that the South African NPPO will, subject to APHIS' approval of the workplan, carry out to meet the proposed requirements. An operational workplan is an agreement between APHIS' PPQ program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities that specifies in detail the phytosanitary measures that will comply with our regulations governing the import or export of a specific commodity. Operational workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Operational workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues. The implementation of a systems approach typically requires an operational workplan to be developed. APHIS would

be directly involved with the South African NPPO in monitoring and auditing implementation of the systems approach.

In addition, the fruit would have to be packed for export to the United States in a packinghouse that meets the requirements for safeguarding, culling, and treatment that are described below. Maintaining the identity of the fruit would allow for the use of the traceback procedures described below.

Finally, all shipments would be required to undergo cold treatment in accordance with our phytosanitary treatment regulations in 7 CFR part 305 to mitigate against infestation by the false codling moth (Thaumatotibia leucotreta), fruit flies of the genera Ceratitis and Pterandrus, and Bactrocera invadens.

#### Packinghouse Requirements

We are proposing several requirements for packinghouse activities, which would be contained in paragraph (c) of proposed § 319.56-70. All packinghouses that participate in the export program would have to be registered with the South African NPPO. Packinghouses that are registered with the South African NPPO would be required to have in place general sanitation procedures and programs for training packinghouse workers to cull fruit with evidence of pest damage, among other things. If issues should arise, registration would also allow for the traceback of a box of fruit to its packinghouse, via the box markings detailed in the operational workplan, and would allow APHIS and the South African NPPO to determine what remedial actions are necessary.

Any symptomatic or damaged fruit would have to be removed from the commodity destined for export to the United States. Fruit would be required to be practically free of leaves, twigs, and other plant parts, except for stems that are less than 1 inch long and attached to the

fruit. These are standard practices in packing commercial fruit that have been shown to effectively remove high proportions of fruit with visible pest damage or disease symptoms.

Citrus fruit would have to be prepared for shipping using packinghouse procedures that include washing, brushing, surface disinfection, treatment with an APHIS-approved fungicide in accordance with label instructions, and waxing.

#### Phytosanitary Certificate

To certify that citrus fruit from the Republic of South Africa has been grown and packed in accordance with the requirements of proposed § 319.56-70, paragraph (d) would require each consignment of citrus fruit to be accompanied by a phytosanitary certificate of inspection issued by the South African NPPO stating that the fruit in the consignment is free of all quarantine pests and has been produced in accordance with the requirements of the systems approach.

#### Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive

analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

The proposed rule would allow the importation of five citrus species from CBS-affected areas of the Republic of South Africa. Importation would require a systems approach to pest risk mitigation, equivalent to U.S. requirements that govern the interstate movement of citrus from domestic CBS-affected areas, in addition to cold treatment. Because CBS is present in most citrus-producing areas in the Republic of South Africa, this action would greatly expand the area where citrus may be grown and shipped to the continental United States.

Changes in imports of South African citrus and impacts for U.S. producers and consumers would depend on a variety of factors. Additional imports would compete with U.S. domestic production as well as with citrus imports from other countries, particularly ones also located in the Southern Hemisphere that have export seasons similar to those of the Republic of South Africa. The extent to which the United States may become a more prominent export destination for South African citrus could also be influenced by the Republic of South Africa's export prospects elsewhere, particularly to the European Union (EU). The EU is an important market for South African citrus, but imports were recently suspended for one growing season due to concerns over CBS. While the suspension was temporary, future EU restrictions are possible. On the demand side, consumers base their purchasing decisions for fresh citrus on the price and a number of qualitative attributes such as variety, flavor, juiciness, ease of peeling, appearance, freshness, perceived health benefits, production method, and product origin.



Consumers would benefit from additional fresh citrus imported from the Republic of South Africa, and importers and distributors of South African fresh citrus would also benefit from new business opportunities. U.S. producers would face increased competition from the additional imports. For all affected entities, effects can be expected to vary by citrus species.

The U.S. import market for oranges has been expanding, even though per capita consumption of oranges has remained relatively constant. As with other citrus, the peak U.S. demand for imported oranges occurs as the U.S. production and marketing season is ending, and corresponds to the Republic of South Africa's peak in orange exports to the world. Strong competition from domestically produced Valencia oranges is likely to limit additional imports of this variety from the Republic of South Africa, whereas we expect there may be better opportunities for increased navel orange imports.

South African exporters may find opportunities to expand sales of fresh grapefruit to the United States with publication of this rule. Less than 4 percent of grapefruit production areas in the Republic of South Africa are considered to be CBS-free and therefore currently eligible to send citrus to the United States. However, U.S. per capita consumption has been relatively flat over the last decade, and imports represent a small proportion of the overall domestic supply of grapefruit. South African exporters would be constrained to some extent by the same market-clearing price faced by all suppliers, although fresh grapefruit from the Republic of South Africa have generally commanded a price premium relative to imports from other sources.

A significant portion of the Republic of South Africa's tangelo and mandarin varieties is grown in areas that are CBS-free and already eligible for importation by the United States. Therefore, any increase in tangerine and mandarin imports as a result of the proposed rule is

likely to be limited. U.S. per capita consumption of tangerines has increased over the last decade, as have imports.

No lemons from the Republic of South Africa are currently imported into the United States, even though lemons grown in CBS-free areas are eligible. All citrus imported from the Republic of South Africa must be cold treated, and lemons do not survive this cold treatment in a marketable condition. Therefore, no new lemon imports are expected as a result of this proposed rule.

We use a non-spatial, net trade, partial equilibrium model to assess benefits and costs of the proposed rule quantitatively. As a measure of the sensitivity of possible impacts, we assume three annual import volumes for each of the three species of citrus expected to be affected by the rule: fresh oranges, fresh tangerine and mandarin varieties,<sup>3</sup> and fresh grapefruit. In all cases, we find that consumer welfare gains would outweigh producer welfare losses, yielding small positive net welfare impacts. Modeled net economic gains for the United States due to the additional citrus imports from the Republic of South Africa range from about \$40,000 to \$130,000 for fresh oranges, from about \$240,000 to \$740,000 for fresh tangerine and mandarin varieties, and from about \$21,000 to \$42,000 for fresh grapefruit.

We have identified industries that could be affected by the proposed rule based on the North American Industry Classification System. Based on Small Business Administration size standards, small entities are prominent in those industries for which information on business size composition is available.

---

<sup>3</sup> Including tangelos, clementines and similar citrus hybrids.

## Executive Order 12988

This proposed rule would allow fresh citrus fruit to be imported into the continental United States from areas in the Republic of South Africa where citrus black spot has been known to occur. If this proposed rule is adopted, State and local laws and regulations regarding fresh citrus fruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

## Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2014-0015. Please send a copy of your comments to: (1) APHIS, using one of the methods described under ADDRESSES at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation of several varieties of fresh citrus fruit, as well as Citrus hybrids, into the continental

United States from areas in the Republic of South Africa where citrus black spot has been known to occur. As a condition of entry, the fruit would have to be produced in accordance with a systems approach that would include requirements for shipment traceability, packinghouse registration, and phytosanitary treatment. The fruit would also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of South Africa with an additional declaration confirming that the fruit has been produced in accordance with the systems approach. This action would allow for the importation of fresh citrus fruit, including Citrus hybrids, from the Republic of South Africa while continuing to provide protection against the introduction of plant pests into the United States.

Allowing the importation of fresh citrus into the United States from the Republic of South Africa will require an operational workplan, packinghouse registrations, and phytosanitary certificates with an additional declaration.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.77 hours per response.

Respondents: NPPO of the Republic of South Africa, producers, and exporters.

Estimated annual number of respondents: 56.

Estimated annual number of responses per respondent: 5.19.

Estimated annual number of responses: 291.

Estimated total annual burden on respondents: 225 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

#### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Add § 319.56-70 to read as follows:

##### § 319.56-70 Citrus fruit from the Republic of South Africa.

Grapefruit (Citrus paradisi Macfad.), sweet oranges (C. sinensis (L.) Osbeck), mandarins (C. reticulata), lemons (C. limon), and tangelos (C. paradisi x C. reticulata) may be imported from areas in the Republic of South Africa where citrus black spot (Guignardia citricarpa) is known to occur into the continental United States only under the conditions described in this section. These species are referred to collectively in this section as “citrus fruit.” These conditions are designed to prevent the introduction of citrus black spot.

(a) Commercial consignments. Citrus fruit from the Republic of South Africa may be imported in commercial consignments only.

(b) General requirements. (1) The national plant protection organization (NPPO) of the Republic of South Africa must provide an operational workplan to APHIS that details the activities that the South African NPPO will, subject to APHIS’ approval of the workplan, carry out to meet the requirements of this section. APHIS will be directly involved with the South African NPPO in monitoring and auditing implementation of the systems approach.

(2) The fruit must be packed for export to the United States in a packinghouse that meets the requirements of paragraph (c) of this section.

(3) The fruit must be cold treated in accordance with part 305 of this chapter to mitigate against infestation by the false codling moth (Thaumatotibia leucotreta), fruit flies of the genera Ceratitis and Pterandrus, and Bactrocera invadens.

(c) Packinghouse procedures. (1) All packinghouses that participate in the export program must be registered with the South African NPPO.

(2) Culling must be performed in the packinghouse to remove any symptomatic or damaged fruit. Fruit must be practically free of leaves, twigs, and other plant parts, except for stems that are less than 1 inch long and attached to the fruit.

(3) Fruit must be washed, brushed, surface disinfected, treated with an APHIS-approved fungicide in accordance with label instructions, and waxed.

(d) Phytosanitary certificate. Each consignment of citrus fruit must be accompanied by a phytosanitary certificate of inspection issued by the South African NPPO stating that the fruit in the consignment is free of all quarantine pests and has been produced in accordance with the requirements of the systems approach in 7 CFR 319.56-70.

Done in Washington, DC, this 22nd day of August 2014.

---

Kevin Shea

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014-20494 Filed 08/27/2014 at 8:45 am; Publication Date: 08/28/2014]